

ORIGIN/ACTION

DEPARTMENT OF STATE

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PRIORITY
HANDLING INDICATOR

TO : DEPARTMENT OF STATE

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FROM : Amembassy NICOSIA

DATE: December 2, 1963

SUBJECT : Communications Facilities Agreement

REF : Department's A-26, November 15, 1963

I have reviewed with interest the draft communications facilities agreement transmitted by A-26 and have consulted regarding the matter with Mr. Donald Wehmeyer of the Legal Adviser's Office, as well as the Regional Radio Officer, the Commander of the Naval Facility and the Bureau Officer of the Foreign Broadcast Information Service.

By and large, the proposed draft seems a good one to put forward to the Government of Cyprus. There are, however, several modifications which occur to us which we believe will improve the proposal without materially impairing our general objectives. The proposed modifications and the explanation therefor are as follows:

Paragraph C: Add Nicosia to the list of sites as Number 1, and renumber the other sites accordingly.

Explanation: There is a certain amount of radio equipment located in the Embassy building which is related to the communications facilities in general. The Government of Cyprus is undoubtedly aware of this fact, and it may avoid possible confusion to complete the list of sites.

Paragraph D: Redraft as follows:

"D. Authorization to use a site for a communications facility is understood to including the following authority:

- "1. To establish (. . . same as before).
- "2. To station (. . . same as before).
- "3. To provide (. . . same as before).

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Drafted by: DAWehmeyer/
AmbFraserWilkins:mgd November 29, 1963

Contents and Classification Approved by:

State Dept. review completed

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"4. To Maintain warehousing facilities for communications equipment and to receive and dispatch such equipment free of duty."

Explanation: The supply function of the Regional Radio Office, including the supply of United States communications locations outside Cyprus, is a significant aspect which was not covered in the proposed draft. I believe that it would be wise to include it by a specific reference since we have had at least one alarm indicating this may some time be a source of difficulty.

Paragraph F: While I will present the language to the Cypriots as prepared by the Department (with one modification suggested below), I think there is a fairly good chance the Cypriots will not want to have the proposed express reference to the Vienna Convention. I believe the least significant objection is likely to be that since the Government of Cyprus has not adhered to the Convention, it would be inappropriate to make such reference to it in the facilities agreement. I believe this is an argument which can be overcome if it is the sole basis for reluctance.

A more substantial argument, however, is that reference to the Convention will clearly equate the proposed agreement with at least certain provisions of an important international treaty and the Cypriot officials may consider it politically impossible to avoid submitting it to the House of Representatives. Their decision would involve a political judgment with which we would not, of course, be in a position to argue. Accordingly, in the event they should object to the present formulation, I would suggest that we have two fallback positions and that I be authorized to advance them as necessary in the negotiations.

The change I believe desirable in any event would be the deletion of the words "bearing diplomatic passports and" in paragraph F(1). The situation is that certain of the communications personnel who do not have diplomatic passports have been notified to the Government of Cyprus as officers of the Embassy. Since we anticipate no problem on this in so far as the Government of Cyprus is concerned, I see no real reason to limit the status of such individuals under the agreement on the basis of our own internal arrangements as to who receives a diplomatic passport.

First Fallback Position:

"F. Personnel.

"1 (a). Officials duly notified to the Government of Cyprus as officers of the Embassy are diplomatic agents.

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"(b). Other United States personnel are members of the administrative and technical staff of the mission.

"2. Personnel referred to in Paragraph 1(a) and (b) above are part of the diplomatic mission of the United States in Cyprus and accordingly will enjoy the privileges and immunities accorded to that diplomatic mission and its personnel of comparable rank."

Explanation: The above approach is an adaption of the privileges and immunities provision of the VOA agreement we put forward to the Government of Cyprus. Since our objective is to maintain the unity of the entire mission in so far as privileges and immunities are concerned, rather than try to obtain the Vienna Convention provisions per se, I believe this formulation would satisfy our needs. The result would be that prior to implementation of the Vienna Convention by the Government of Cyprus, communications facilities personnel would be treated as regular Embassy personnel in so far as privileges and immunities are concerned. Should the Government of Cyprus accede to the Convention, all personnel would thereafter come under its provisions, of course.

Since the Government of Cyprus has already seen this type of proposal in the proposed VOA agreement (in which case there was no indication that it would trouble them), it may be the most effective way to resolve this issue.

Second Fallback Position:

"F. Personnel.

"1 (a). Officials duly notified to the Government of Cyprus as officers of the Embassy are diplomatic agents.

"(b). Other United States personnel are members of the administrative and technical staff of the mission.

"2. (Insert at this point Articles 29 to 37 (2) of the Vienna Convention, edited as necessary in view of the bilateral nature of the agreement. The Department is requested to furnish the Embassy with an edited version to be utilized for this purpose.)"

Explanation: This seems to be the most direct method of accomplishing our initial purpose of obtaining Vienna Convention status for facilities personnel. It has the obvious disadvantage, however, of introducing lengthy provisions relating to privileges and immunities into an otherwise

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brief agreement and the over-all result would be to highlight this aspect of the agreement.

It has been suggested by the Regional Radio Office in Nicosia that consideration be given to defining "time of first installation" in Article 37(2) of the Vienna Convention as "a period of 6 months from date of arrival." Reason for the definition is that there should be a known period during which personal effects can arrive. I believe it would be preferable not to define the period, as we can always say in discussions with the Government of Cyprus that imports are in connection with the first installation no matter when they arrive, even, for example, one year after the arrival of the employee himself. In general, it would seem preferable in agreements of this type to leave the definition of the time of first installation open. I would, however, appreciate the Department's advice on this point.

Paragraph G (1) (b): Delete item (4) "Wireless and Television Licenses".

Explanation: The Government of Cyprus has not indicated any interest or concern in this particular fee. Since the article takes care of the items regarding which they have expressed concern (driving licenses and vehicle registration and plates), I think we should let sleeping dogs lie in so far as wireless and television licenses are concerned. If the Government of Cyprus raises the point, we can consider adding it to the list.

Paragraph B (2): Insert paragraph concerning establishment of commissary.

Explanation: A paragraph is desired to balance 2(a) setting up post office; alternatively 2(a) could be dropped on grounds that 2(b), as now worded, is adequate in that it covers both post office and commissary.

Paragraph H (1) (a) and (b): Redraft as follows:

"H. 1. In order to facilitate the effective utilization of the communications facilities by the United States Government, the Government of Cyprus undertakes:

"(a) To assist, at the request of the mission, in leasing or acquisitions on behalf of and at the expense of the United States, such interests in additional land in Cyprus as may be required to permit the

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proper functioning of the communications facilities;"

Explanation: A review of the present arrangements regarding land acquisition leads us to the conclusion that it would be unwise to seek to introduce the Government of Cyprus into the picture to the extent contemplated by the Department's draft. There are a number of factors involved in this judgment.

The United States does not have a significant staff involved in the real estate aspect of the operation. One Foreign Service local employee is employed at the Yerolakkos and Mia Milia sites and another local employee is employed at Karavas. The total salaries of the two individuals amount to only \$9,000 per year. In fact, these employees are not engaged full time on the real estate problem and perform certain other functions as well. These local employees are experienced in the acquisition of land in Cyprus and we have no assurance that Government of Cyprus officials would be as effective as our own employees. It is conceivable that we would find ourselves enmeshed in the Government of Cyprus bureaucracy and our effectiveness retarded by a change to complete reliance on the Government of Cyprus.

The reason for our belief is that, in fact, the land situation is reasonably stable at all three sites. Under Cypriot law, leases of the type we have obtained run in perpetuity unless an express provision for a term of years is made. Accordingly, we have stabilized in large part the land we now have in use. We also have a fairly good idea of our future needs in adjacent land to permit erection of such additional antennas for which a requirement can be anticipated. In fact, this, too, is a manageable problem--not much land is involved and we are in the process of obtaining leases which will permit such expansion.

An additional reason for revising the language is that an indication the Government of Cyprus could "assume responsibility" for leasing and land acquisition might be an open invitation to them to move into areas where we would not wish them to operate; it might, in brief, lead them to think they have an operational interest in the communications facilities. We think that, on balance, and particularly bearing in mind the situation noted above, it would be unwise to run any risk on this point.

With the above changes of substance in mind, it seems appropriate to merge paragraph (a) and (b) as proposed in the above redraft.

It should be noted that our land rentals are very low--the total outlay for all the land under lease as antenna fields is currently only about \$20,000 per year.

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There is some potential advantage, however, in obtaining a provision in the agreement that would permit us to go to the Government of Cyprus for assistance at our option. This would be useful should we need assistance in obtaining the right to use a particular piece of land. However, on the basis of experience to date, this would be a rare case.

Paragraph H (1) (f): Put a semicolon after the words "radio stations" and delete words "operating on or near frequencies of particular interest to the United States communications center".

Explanation: We believe that we can accomplish on-the-spot corrective action in the event of any interference under the language as re-drafted. We believe, on the other hand, that it may be confusing and time-consuming to try to negotiate with the Government of Cyprus the details of what might be involved in the original language, such as "frequencies of interest", what is "on or near", etc. In brief, the technicians here believe that the revised language is sufficient protection on the point and that reverting to the simpler formulation may avoid difficulty.

We believe it is desirable to increase the duration of the agreement from ten to twenty years. We understand the decision as to duration took into account that we might wish to terminate operations before twenty years and would not want to be obliged in such circumstances to reimburse the Government of Cyprus for the period of time left to run. While this is a logical concern, we believe it is more than offset by the need to stabilize for a longer period the communications facility itself. For example, one decision of relevance is whether to move to a new site near Mia Milia. If the agreement is only for ten years, it might not be economically sound to move. On the other hand, if it is a twenty-year agreement and we can acquire the land desired, it may be feasible to move to a location which might be better over the long run.

Reimbursement of the Government of Cyprus for Services Rendered: As a first bargaining price, we propose to offer £50,000 yearly because of our experience during the VOA negotiations last year. Although the present situation is not exactly the same, it is close enough to provide guidance.

At that time, we offered approximately £35,000 yearly for 2,000 acres. Makarios and Papadopoulos asked approximately £350,000 yearly, but eventually came down to approximately £105,000 yearly when the talks were suspended because of signing of bilateral agreement with Greece.

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At the present time, we are using approximately 800 acres which we have by purchase and by lease. By now offering £50,000 yearly, we will be giving Cypriots about one-half of their last price during the VOA talks for about one-half the land area. We would not, however, get into such detail, but merely say in making our present offer that our present set-up is about half what we contemplated for VOA.

As we get into negotiations and if it should become clear that the Government of Cyprus insists upon a higher price, we plan to give ground little by little. We might justify increase on grounds that the operation of a customs-free commissary and the import of goods through the FPO without duty means a loss of revenue to the Government of Cyprus over and above the privileges which are customarily extended under the Vienna Convention. We have no exact records of the value of such imports or the duty which might have been levied upon them, but we estimate the latter at between £100,000 and £150,000 yearly. We believe the Government of Cyprus will especially appreciate this rationale as it is often criticized in press for privileges extended to Americans.

We hope that we can settle with the Government of Cyprus for a total of approximately £150,000 to £200,000 yearly, that is, £50,000 on a basis of area of land involved, and between £100,000 and £150,000 on the basis of loss of revenue to the Government of Cyprus through the operation of the commissary and imports through the FPO. We shall handle both of these rationales in a most general way, as we would not wish to enter a detailed discussion on basis of land or loss of revenue through customs exemption.

During the VOA negotiations, the Government of Cyprus was told the rent could be paid 10 years in advance. Would it be possible to reimburse the Government of Cyprus under the present agreement in advance for several years? This concession would be greatly appreciated by the Government of Cyprus, as it would make it possible to use the money for development now.

We have in several conversations recently continued our efforts to persuade the Government of Cyprus to issue automobile license plates and registrations, as well as driving licenses, to our mission personnel on a temporary basis pending negotiation of a bilateral agreement. The Chief of Protocol recently told me that the Foreign Minister now believed it preferable to await the negotiation of the bilateral agreement and not to issue licenses or plates on a temporary basis. The reason was that the latter action would receive wide comment in the press and it would be necessary for the Government of Cyprus to say it was doing so without charge. The Foreign Minister thought it best to avoid adverse comment

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which would undoubtedly result. The Chief of Protocol added, however, that the Government of Cyprus was willing for us to continue to use the present American temporary license plates for the time being.

I will appreciate the Department's comments and will postpone any approach to the Government of Cyprus pending a reply.



Fraser Wilkins

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